F.A. No. 140 of 2001
(Old No. 172/1991)

Hon. P.C. Pant, J.

Heard learned counsel for the parties.

This appeal was filed in Allahabad High Court on 13.03.1991. There is Stamp Reporter's report on that very day, that there is deficiency of court fee of Rs. 2,497.50 paise. The Allahabad High Court also granted time in 1991, and also, on 02.02.1994 to make good the deficiency of court fee.

This appeal has been transferred from Allahabad High Court to this Court, for its disposal under Section 35 of the U.P. Re-organization Act, 2000. For last 15 years, the appellant has not paid the court fee. There is delay of 232 days in filing the appeal. However, an application for condonation of delay is also pending with the memo of appeal.

A counter affidavit has been filed against said application challenging the reasons mentioned in the affidavit filed in support of the application under Section 5 of the Limitation Act, 1963.

Learned Chief Standing Counsel for the State submitted that since the appeal has been transferred from the Allahabad High Court, as such, they had no knowledge as to deficiency of court fee. This is a lame excuse, which cannot be pardoned at this stage. Even, since the appeal was received by this Court, almost five years have passed and still the deficiency of court fee is not made good.

Considering that the appellant had failed to make good the deficiency of court fee for last almost fifteen years, this Court is not inclined to entertain this Appeal, nor is there any need to pass any orders on merits on the delay condonation application. The delay condonation application as well as the memo of appeal are rejected, for the reasons as above.

The appeal stands dismissed, accordingly for non prosecution.

Dt. 08.03.2006 (Prafulla C. Pant, J.)
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